

UNITED STATES DISTRICT COURT

for the
SOUTHERN District of TEXAS

OSBALDO A. SAENZ)	Case No. _____
<i>Plaintiff</i>)	(to be filled by clerk's office)
-v-)	
JULIO LIRA BARBOZA and)	
SANDRA ELIZABETH HERNANDEZ)	
<i>Defendants</i>)	

COMPLAINTS FOR A CIVIL CASE ALLEGING BREACH OF CONTRACT

I. The parties to This Complaint

A. The Plaintiff

Name	<u>OSBALDO A. SAENZ</u>
Street Address	<u>702 S. Border Ave.</u>
City and Country	<u>Weslaco, Hidalgo County</u>
State and Zip Code	<u>Texas, 78596</u>

B. The Defendant(s)

Defendant No. 1

Name	<u>JULIO LIRA BARBOZA</u>
Street Address	<u>1808 W. 31st & 1/2 Street</u>
City and County	<u>Mission, Hidalgo County</u>
State and Zip Code	<u>Texas, 78596</u>

Defendant No. 2

Name	<u>Sandra Elizabeth Hernandez</u>
Street Address	<u>1808 W. 31st & 1/2 Street</u>

City and County	<u>Mission, Hidalgo County</u>
State and Zip Code	<u>Texas, 78596</u>

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Under 28 U.S.C. § 1332, federal courts may hear cases in which a citizen of one of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000. In that kind of case, called a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

A. The Plaintiff

1. The plaintiff, OSBALDO a. SAENZ, JR., is a citizen of the State of Texas and a resident of Hidalgo County.

B. The Defendants

1. The Defendant, JULIO LIRA BARBOZA is a citizen of Mexico.
2. The Defendant, SANDRA ELIZABETH HERNANDEZ is a citizen of Mexico.

C. The Amount in Controversy

The amount in controversy-the amount the plaintiff claims the defendants owe or the amount at stake-is more than \$75,000, not counting interest and costs of court, because the written agreement stipulated a sales price of One Hundred and Thirty Thousand (\$130,000) dollars, with a Twelve-Thousand (\$12,000) dollar deposit and monthly payments in the of Seven-Hundred and Ninety (\$790) plus a 7% interest rate.

III. Statement of Claim

On May 26, 2013, the plaintiff owned a piece of real property addressed at 1808 W. 31st & ½ Street, Mission, Texas 78574. The legal description is "*All of Lot Number 5, El Arroyo Subdivision, Mission Hidalgo County, Texas 78574.*" On such date the plaintiff entered into a contract with defendants for the sale of the subject property. The agreement or contract was written and signed by all parties and notarized. Their written agreement stipulated a sales price of One Hundred and Thirty Thousand (\$130,000) dollars, with a Twelve-thousand (\$12,000) dollar deposit and monthly payments in the amount of \$790 (7% interest rate). *See attached Exhibit 1, Contract.*

Under that agreement or contract, the parties were required to:

- 1) Seller contracted and agreed to sell onto Purchaser, and Purchaser agreed to purchase the following described real estate property: 1808 W. 31st & ½ Street, Mission, Texas Hidalgo County 78574.
- 2) The total consideration for the above real estate property was One Hundred and Thirty Thousand Dollars with no cents (\$130,000.00). The parties agreed that the Seller shall consider Purchasers in default should Purchasers fail two (2) consecutive or separated payments and whereas Seller reserves the right to an option to accelerate payments.
- 3) Should the seller employ an attorney to enforce this contract or any of its provisions, terms, and conditions, or forfeiture to hereunder regain possession of said above described property or of being required to file suit to clear any cloud or claim to the title as a result of. Purchaser agreed to pay Seller, in addition all of the expenses and attorney's fees incurred by Seller. In such instance, Purchaser

agreed to pay at Seller's attorney's option, the full amount due or the actual hourly fee charge by said attorney, plus all expenses of Seller and Seller Attorney or Attorneys.

The defendants failed to comply because;

1. Did not pay as agreed.
2. Did not pay the property taxes as agreed.
3. Did not purchase and maintain property insurance coverage.

The contract also required the defendant to pay the property taxes and maintain insurance coverage. The defendant has breached the agreement by failing to (1) pay as agreed, (2) pay the property taxes and (3) failed to purchase & maintain property insurance coverage. *See attached Exhibit 2, Breach Notice.*

The Plaintiff has complied with the plaintiff's obligations under the contract.

IV. Relief

As a result of the breach of the agreement, plaintiff lost the real property with a contractual value of One Hundred and Thirty Thousand (\$130,000.00) dollars. Plaintiff has further incurred out of pocket expenses and attorney fees in securing the defendant to vacate the premises. Furthermore a request is made for Fifteen Thousand (\$15,000) dollars to cover all costs and reasonable and necessary attorney's fees incurred by or on behalf of plaintiff herein.

V. Certificate and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented

for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Attorneys

Date of signing:	October 7, 2016
Signature of Attorney	<i>/s/ Oscar R. Alvarez</i>
Printed Name of Attorney	Oscar Rodolfo Alvarez
Bar Number	575092
Name of Law Firm	Oscar R. Alvarez, Litigator
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